



UNITED STATES PATENT AND TRADEMARK OFFICE

44
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,051	01/31/2002	Li-Shiuan Peh	100110288-1	3926

7590 11/03/2006
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

PATEL, SHAMBHAVI K

ART UNIT	PAPER NUMBER
----------	--------------

2128

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/066,051	Applicant(s) PEH ET AL.	
	Examiner Shambhavi Patel	Art Unit 2128	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 24 July 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-13 and 15-28.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

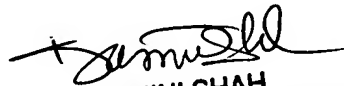
Continuation of 11. does NOT place the application in condition for allowance because: Claim 6 is now dependent on claim 1, claims 17 and 23 are now dependent on claim 13, and claims 18 and 19 are now dependent on claim 17. The amended claims (6, 17-19 and 23) will be rejected under 35 U.S.C. 103(a) as being obvious over Datta et al (US Patent No. 6,209,033), herein referred to as Datta, in view of Shahoumian et al. ("Storage Area Network Fabric Design", November 2000), herein referred to as Shahoumian, as indicated in the Office Action dated 20 March 2006.

Regarding claim 6: The combination of Datta and Shahoumian as applied to claim 1 above teaches the method according to claim 1, wherein said set of network nodes comprises a cluster of nodes and wherein the design problem includes a plurality of clusters (Datta: column 2 lines 12-16).

Regarding claims 17 and 18: The combination of Datta and Shahoumian discloses repeating said selecting, said determining, and said generation until a stop condition is repeated (column 3 lines 1-10). Datta tests all the links present in the network, so the stop condition is reached when all existent connections between the source nodes and destination nodes are evaluated. The links are assigned flows according to the specified substitutions to be made (Datta: column 6 lines 55-61).

Regarding claim 19: The combination of Datta and Shahoumian as applied to claim 17 above teaches the system according to claim 17 wherein the stop condition is based on the bandwidth levels of the flow requirements (Datta: column 13 lines 14-26).

Regarding claim 23: The combination of Datta and Shahoumian as applied to claim 13 above teaches the method according to claim 13, further comprising generating an additional flow and determining whether to add the flow to the design problem according to a specified probability (Datta: column 6 lines 33-61). New links are added to the network, and the network is then simulated to see if the changes are preferable. If there is a high probability that the changes will negatively affect the network, or if this causes the bandwidth to exceed its maximum, the changes can be discarded.



KAMINI SHAH
SUPERVISORY PATENT EXAMINER